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MAILED

JUL 02 2009

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2400**

In re Application of:
Daisuke Kurosaki et al.
Application No. 10/527,822
Filed: March 15, 2005
For: Data Processing Apparatus, Data Processing
Method and Program, and Data Processing
System

**DECISION ON PETITION
UNDER 37 C.F.R. § 1.181**

This is a decision on the petition filed on January 02, 2009 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references listed on the Form PTO-1449 filed with the Information Disclosure Statement (IDS) on March 15, 2005. Petitioner is also requesting that the Examiner withdraw his request for the admission outlined at paragraph 3 of the Official Action.

The petition is **GRANTED**.

BACKGROUND

A first non-final Office Action was mailed on 3/10/2008. A second non-final Office Action was mailed on 4/8/2008. A Final Office Action was mailed on 11/6/2008. The Information Disclosure Statement (IDS) of March 15, 2005 was not considered by the examiner in any of the Office Actions. Additionally, the examiner requested applicant to admit that claims 1-4 and 21-24 are anticipated by JP 2002-135809 or JP 11-25541 as indicated in the search report in the Final Office Action mailed on 11/6/2008 (page 3, paragraph 3).

REGULATIONS AND PRACTICE

MPEP § 609 states the following:

Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the

reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report.

37 CFR § 1.97 (h) states the following:

The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b).

OPINION

The March 15, 2005 IDS was filed under 37 CFR 1.97 and does meet the requirements of both rules 1.97 and 1.98 and MPEP 609 therefore consideration by the examiner is warranted. A copy of this decision is being forwarded to the examiner's SPE to notify the examiner to consider the references and mail petitioner a notice indicating that they have been considered.

In light of rule 1.97(h), the Examiner should withdraw his request for admission outlined on page 3, paragraph 3 of the Final Office Action mailed on 11/6/2008.

Any inquiry concerning this decision should be directed to Christopher Grant at (571) 272-7294.



Christopher Grant
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